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Recent Legislative Changes in the Law of Probate Procedure*

By FLORENCE M. BISCHOFF *of the Los Angeles Bar; Court Commissioner, Department One, Superior Court, Los Angeles County.*

Many of the new laws affecting civil procedure apply also to probate practice and the BULLETIN has already given a digest of those laws. Therefore, except in two or three instances where repetition seems desirable, only those changes which affect probate procedure are noted herein.

Administrators

Under the amendment to Code of Civil Procedure section 1386, the court now has the right to refuse to grant letters of administration to one having a prior right, after letters have already been granted, if such person has had actual notice of first application and the opportunity to contest.

Special Administrators

If, during the administration of any estate a special administrator has been appointed, and, following such appointment, a proceeding to contest a will prior to the probate thereof has been instituted, the court shall make an order providing that such special administrator shall thereafter have the additional powers, duties and obligations of a general administrator, and requiring that such special administrator shall give such additional bond as the court deems proper; such order shall not be appealable. From the time of the making of said order and the approving and filing of any such additional bond as may be required, said special administrator shall likewise have the additional powers, duties and obligations of a general administrator. (Code Civ. Proc. sec. 1415.)

Powers of Executors and Administrators

Code of Civil Procedure section 1581 has been amended to provide that the court upon notice may authorize executors and administrators to continue operation of decedent's business.

Contest of Will

Code Civ. Proc. sec. 1312. The change in this section will be observed by the underlined portions of the following:

"If any one appears to contest the will, he must file written grounds of opposition to the probate thereof, *and thereupon a citation shall be issued directed to the heirs of the decedent and to all persons interested in the will, including minors and incompetents, wherever residing, directing them to plead to the contest within thirty days after service; such service to be made personally or by publication in the manner provided in title five, part two, of this code for the service of summons in civil actions.*" One of the specified grounds of contest, set forth in paragraph 4 reads: "any other questions substantially affecting the *invalidity* of the will." It formerly read, *"validity."*

Code Civ. Proc. sec. 1327. Under the old law, the probate of a will might be contested within one year. Under Code of Civil Procedure section 1327, as amended, any interested person, other than a party to a contest filed before probate pursuant to Code of Civil Procedure section 1312, and other than a person who had actual notice of contest thereunder in time to have joined therein, may, at any time *within six months* after such probate, contest.

Jury Trial

Code of Civil Procedure section 1330, which formerly provided that in all cases of petitions to revoke the probate of a will, wherein the original probate was granted without a contest, on written demand of either party, filed three days prior to the hearing, a trial by jury must be had, has been amended making the provisions of Code of Civil Procedure section 631 applicable thereto.

Notice to Creditors

Code Civ. Proc. sec. 1491. The former provisions of ten months or four months

*EDITOR'S NOTE: *This is one of a series of articles by representative writers, covering important amendments to California laws enacted at the last session of the Legislature. The series is designed to give the readers of the* BULLETIN *the benefit of special research pertaining to the amendments. Another one of the articles, "The New Inheritance Tax Laws," by Leonard Merrill, appears on page* 81 *of this issue.*

(according to the value of the estate) for presentation of claims against an estate are now changed to the single period of six months for all estates. The date of publication determines the time to be expressed in the notice.

Code Civ. Proc. sec. 1492. An amendment to the section relating to notice to creditors eliminates the decree showing that due notice to creditors has been given.

Notice

Code Civ. Proc. sec. 1592. Notices of hearing of petitions to invest funds of estates are now given by the clerk by 10 days' posting without order of court.

Bequests

Code Civ. Proc. sec. 1313. The section which enumerates the unlimited charitable uses of bequests or devises has been amended by adding to the list institutions belonging to any municipality, county or political subdivision within the State.

Bequests to Minors

Under Code of Civil Procedure section 1752½ (new), if a minor has no guardian of his estate, money belonging to the minor not exceeding $250 may be paid to his parent, upon the written assurance of such parent that the total estate of the minor does not exceed $1000 in value.

Distribution

A new section has been added (Code Civ. Proc. sec. 1454a) which provides that in case of the death before distribution of an heir or legatee, the surviving spouse, the children, the parent, the brother or sister, of such deceased heir or legatee may, without procuring letters of administration, present to the judge of the court in which the estate is being administered an affidavit that the amount of money left on deposit in the State and due from said estate to deceased heir does not exceed the sum of $1000, and that affiant is one of the persons entitled to succeed to the property of decedent. Thereupon the judge shall direct the executor or administrator to pay to said affiant or affiants, upon distribution, the share of said sum to which he is or they are entitled under the laws of succession of this State.

Real Property

Code Civ. Proc. sec. 1576a. A new section has been added by which it is now possible for executors or administrators to exchange real property.

The section does not cover guardianship matters, and therefore, the real property belonging to a minor or to an incompetent cannot be exchanged.

Petitions for Attorneys' Fees and Executors' or Administrators' Commissions

Code of Civil Procedure section 1616 has been amended so that the time in which an executor, etc. may apply to the court for allowance on commissions is reduced from one year to six months; and application for allowance on account of attorneys' fees, which formerly read "during administration" is changed to read "at any time after six months from the admission of a will to probate or the granting of letters of administration."

Purposes for which an affidavit may be used.

The section enumerating the purposes for which an affidavit may be used, Code of Civil Procedure section 2009, has been amended by striking therefrom, "except to prove a will" and inserting, "including a proceeding relating to the administration of the estate of a minor or incompetent person after a guardian has been appointed therein."

Estates not exceeding $2500

There have been added four new sections relating to the administration of estates having a net value of less than $2500, (Code Civ. Proc. secs. 1468a,b,c,d).

Section 1468a provides that petitions for letters or for probate, on alleging net value of estate to be under $2500, may by alternative prayer ask for assignment to the widow, etc., or if the estate proves to be over $2500, that usual administration be had.

Section 1468b provides that if petition is pending for letters or probate, the widow and/or minor children, etc., may at once petition to have the whole of an estate of $2500 or less set aside to them. If the hearing of the original petition is set for a day more than ten days after the filing of the petition herein provided for, the hearing of such petition shall be set for the same time as the hearing for the petition for probate of will or for letters of administration; if not, said petition shall be set for hearing at least ten days after the date on which it is filed, and the petition for probate of will, or letters of administration, shall be continued until such date. Notice

of said petition shall be given in the manner provided in section 1465a of the code.

Section 1468c provides for appointment of one inheritance tax appraiser, upon filing of the petition, in connection with the above matters, unless the estate consists of cash.

Section 1468d relates to assignment of such estate to the widow and/or minor children, if the court finds the net value exceeds $2500, or that the widow or minor child has other estate of $5000 in value, or that there is neither a widow nor a minor child or minor children, it shall act upon the petition for probate or for letters of administration in the same manner as though no petition to set aside the estate had been included, and the estate shall then be administered in the usual manner.

The amendment to Code of Civil Procedure section 1469 limits the assignment of estates not exceeding $2500 by adding, "But no widow or minor child having other estate of $5000 in value, shall be entitled to such an assignment."

Joint Tenancies

Joint tenancies may now be created under Civil Code section 683 by transfers from a sole owner to himself and others, or from tenants in common to themselves, or themselves and others.

Code of Civil Procedure section 1723 has been amended by the addition of a provision for the appointment of one inheritance tax appraiser. He "must be appointed by the court in every such proceeding to determine what if any inheritance tax is payable unless another proceeding is pending in which the taxability of the transfer involved in such proceeding may be determined. If the said inheritance tax appraiser reports that no inheritance tax is payable he shall be paid by the petitioner or petitioners for his services and expenses a reasonable amount to be fixed by the court in which said proceeding is pending."

Action to Determine Heirship

The time in which may be filed a petition "praying the court to ascertain and declare the rights of all persons to said estate and all interests therein, and to whom distribution thereof should be made" has been changed so that the minimum is six months instead of one year (Code Civ. Proc. sec. 1664).

Trusts

Attention is directed to the amendments to sections 724, 725 and 726 of the Civil Code, relating to the accumulation of income from property, which add a provision that such accumulation may be directed by a trust in addition to the methods allowed under the old section, and further add that such accumulation may be

"for the benefit of one or more persons, objects or purposes, to commence within the time in this title permitted for the vesting of future interests and not to extend beyond the period limiting the time within which the absolute power of alienation of property may be suspended as prescribed by law."

Civil Code section 725 (Other Directions: When void in part) and Civil Code section 726, (Application of Income to Support) have been recast to conform to the amended section 724.

Civil Code sections 847 and 857, the sections enumerating purposes for which a trust may be created, have been repealed, and Civil Code section 2220 has been amended. It now provides that, "A trust in relation to real and personal property, or either of them, may be created for any purpose or purposes for which a contract may be made."

Trustees

A new section, Code of Civil Procedure section 1822bb, has been added, giving authority to the trustee of a missing person to sell personal or real property of the estate after eight months from the date of appointment and qualification of the trustee, and provides the procedure therefor.

Guardianship
(Personal Property)

A guardian may now sell personal property of his ward (subject to confirmation by the court) for purpose of reinvestment, such reinvestment to be confirmed by the court either at time of confirmation of sale or at any time thereafter. (Code Civ. Proc sec. 1778 a (new).)

Guardianship of Incompetent Persons

Code of Civil Procedure section 1763 provides that the clerk of the court, instead of the court or judge, must cause a notice to be given of hearing of petition for appointment of guardian of incompetent persons.

Code of Civil Procedure section 1766 provides that the secretary of the State Department of Institutions, if he has been appointed guardian, may file a petition for restoration. Formerly, the section provided

for petitions by the incompetent, his guardian, a relative within the third degree, or any friend.

California Inheritance Tax Act

The California Inheritance Tax Act has been amended and a summary of the changes appears elsewhere in the BULLETIN. However, some of the amendments will affect the computation in many estates, and those sections are included in this article.

Inheritance Tax

ACT 8443, GENERAL LAWS

Exemptions: *Sec.* 6¾. The widow's exemption has been increased from $24,000 to $50,000, and the rate of tax on excess over $100,000 has been lowered.

Sec. 6 (2) (*a*). The exemption to brothers, sisters, their issue, and the wife or widow of a son, and husband of a daughter of the decedent, has been increased from $2000 to $5000. The rate of tax on excess over $100,000 has been lowered.

Sec. 6 (1) (*b*). The amendment extends the exemption as to charitable bequests so as to include societies, corporations, institutions or associations organized outside of California where a similar exemption is extended to California charities.

Transfers: *Sec.* 2 (3). It is provided that in the case of a transfer intended to take effect in possession or enjoyment at or after death, the value of the transferred property shall be taken as of the date of death of transferor.

Sec. 2 (4). Provision is made that transfers made more than four years prior to the date of death shall be presumed not to have been made in contemplation of death; and that in the case of a transfer of real property or stock of a corporation, the four-year period shall begin with the date of recordation of the instrument conveying the real property, or the date of transfer on the books of the corporation of the stock to the transferee.

Deductions: *Sec.* 2 (10). The section limits the deduction for debts, expenses of last illness, taxes and expenses of administration, to only those paid by the estate or a transferee, and provides that the deduction for executors' or administrators' and attorneys' fees shall be computed on the value of the estate at the date of death.

Sec. 2 (10) (*f*). The amendment extends the deduction for inheritance or succession taxes so as to include taxes paid to any territory of the United States and any foreign State or Country.

Non-residents: *Sec.* 2½. The former provision which taxed stock in domestic corporations owned by non-resident decedents at the flat rate of 2%, is repealed, so that, as the law now stands, such stock will be taxed at the ordinary rates, subject to the reciprocal provisions embodied in section 6½ as amended.

Sec. 6½. The so-called reciprocal provision is amended so as to exclude States or territories which do not impose on residents thereof, a legacy, succession or death tax in respect of intangible personal property within the particular State or territory; and so as to include foreign States or countries which do impose a tax on residents and follow the rule of reciprocity with respect to non-residents.

The President's Page

At the request of Mr. Bailie, Senior Vice-President, the Committee consisting of Robert P. Jennings, Joseph W. Vickers and Clement L. Shinn, appointed from the Bar Association at the request of the Presiding Judge to act as friends of the Court in the cases of certain persons recently convicted of contempt of court, has furnished the following article for the President's Page:

PUBLICATIONS AS CONTEMPT OF COURT

In recent cases in the Superior Court, two persons have been found guilty of contempt of court, growing out of speeches made over the radio and to public gatherings, which tended to interfere with proceedings of the court in cases on trial. These prosecutions have been widely discussed and have received much attention in the press. The cases themselves, viewed solely as offences of the individuals in question, have been relatively unimportant, but in so far as they have directed the attention of thoughtful people toward the principles involved they are of vital interest.

No one who has given the subject serious consideration can doubt that the time has arrived when we should inquire into conditions that surround our courts in the trial of cases which arouse great public interest. The convictions referred to prove to be a fact that there are persons in this community, having facilities for contact with great numbers of people, who feel privileged to discuss publicly and without restraint cases about to be tried or actually on trial. That such discussions in the past have flagrantly violated the law has now been established but the convictions have accomplished little if their only result is to be the punishment of the offenders.

The purpose underlying the power to punish for contempt is to compel, in those whose conduct cannot be controlled otherwise, a respectful demeanor toward the court and to prevent unlawful interference with the processes and proceedings of the court. While the publication of any article calculated to prejudice prospective jurors or to influence the court or jury or to intimidate witnesses is to be condemned as an unlawful interference with the due administration of justice, occasional or inconspicuous cases give no cause for any great concern. But if, through indifference, we have tolerated such infractions of the law to the extent that they have become established and common practices, the cause of justice will inevitably suffer until those practices are discontinued.

It cannot be denied that the atmosphere surrounding some of our courts, especially in the trial of sensational cases, is lacking in that dignity and solemnity that should attend the deliberations of a court. Too often such trials are publicly regarded merely as free shows and the officers of the court as actors whose conduct in the performance of their duties is interesting to their hearers only as it furnishes amusement or satisfies their craving for sensationalism. It is not surprising that our courtrooms are over run with a jostling crowd of curious idlers who are more anxious to hear a bit of racy testimony than to see justice prevail. The more sordid and immoral the story that is to be told upon the witness stand, the more widely will it be advertised in the press and by some who profess to preach and teach morality. Some newspapers, not content with having published the facts of the crime in disgusting detail, must needs refer to still other features as "unprintable." It is unfortunately a fact that our court trials furnish, gratis, and in a manner assumed to be lawful, salacious entertainment that is condemned in literature and upon the screen and the stage. To make the picture more complete, in cases of this character, frequently attorneys indulge in petty bickering and in insincere and flamboyant displays commonly known as "grandstanding."

In such an atmosphere and against such obstacles it is the duty of the judge to maintain order and decorum, to conduct the trial with dignity and as far as may be humanly possible to keep from the jurors all matters tending to create passion or prejudice in their minds. Passion and prejudice are the antitheses of justice. They

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override the truth and destroy calm deliberation and judgment. They have no place in a court of justice; the rules of evidence have been framed so as to exclude them, and it is the duty of the judge not only to maintain an attitude of entire impartiality but to so control the conduct of all persons before the court that the minds of the jurors will not be improperly influenced.

If the power of the court did not extend beyond the portals of the court room—if there were no power to punish for constructive contempts, consisting of attempts to bring influences to bear upon the court or jury in ways that would not be permitted in open court, there could be no such thing as a fair trial and our judicial system would be destroyed. If the courts, having the power and the duty to defend their integrity, fail to do so, and allow their courtrooms to be invaded by insidious propaganda in its multifarious forms, the administration of the law will soon be taking as its guiding star the deceptive clamor of designing persons instead of the conscience and judgment of its sworn officers.

It is the purpose of this article to invite thoughtful attention to present conditions affecting the courts of this county, in order to determine whether they are free from the influences that are universally denounced by both the written and unwritten law as inimical to the due administration of justice. Let us see what some of those sinister influences might be with relation to a pending criminal prosecution. Of first importance is the selection of an unprejudiced jury. Evidence concerning the crime charged should be received in court, under safeguards of the law of evidence, and not through the press or over the radio or at public gatherings. The publication in any extended manner of evidence about to be given in the trial would be improper as also would be statements of counsel purporting to discuss the evidence or the merits of the case. Likewise improper would be statements to the effect that the case of the prosecution is complete and that the evidence available is sufficient to prove the guilt of the accused or on the other hand that the defendant is the victim of a plot by enemies who seek to ruin him. Vehement and widely circulated statements by one on trial, protesting his innocence and claiming to have the support of all honest people in the conduct for which he stands accused, would tend strongly to influence and prejudice prospective jurors and the same may be said of statements against the accused which characterized him as a menace to society. Announcements of counsel as to evidence they expect to produce at the trial or statements challenging the motives of the opposing parties or their counsel or attacking the credibility of witnesses should not be made. Publicly announced threats to institute criminal proceedings against parties or their witnesses, whether eminating from the prosecution or the defense, would be highly improper as tending to intimidate witnesses and influence the court and jury. Accusing the judge or members of the jury of being biased or unfair or dishonest or of having prejudged the accused would be an unlawful interference with the proceedings of the court. Intimating that some possible action by the court or jury would meet with public disfavor or would give rise to a suspicion of dishonesty or threatening a judge with removal from office, in such manner as possibly to influence his decisions, would be reprehensible and intolerable.

Misconduct of this nature is universally held by our courts to constitute contempt. Such publications all go to make up that process by which the question of a defendant's guilt or innocence can be tried and often is tried and determined in the public mind even before his trial in court begins.

It is not alone the individual whose rights are prejudged who suffers, but it is the entire judicial system and society as a whole that pay the price of interference with the independence and judicial poise of the court.

There are many vices in the practice of arousing and moulding public opinion to definite beliefs as to the merits of pending cases. No lawyer need be reminded of the force of public opinion in its influence upon judicial proceedings. Judges and jurors are swayed, often times unconsciously, by manifestations of public opinion, for they realize, with instincts that are only human, that the public will applaud when given what it wants and condemn unjustly when disappointed.

If all judges and jurors were as independent and courageous as the strongest, public opinion could never accomplish an injustice, but if all were as weak as the weakest, public opinion, however deluded, would soon control our courts and destroy their value to society.

It is altogether right that the public should be ever on the alert to detect incompetency or dishonesty in the judicial system and prompt to remove unfaithful or unworthy officers of the court, but no individual or group or faction, however powerful, has a vestige of right, either by personal contact or by subtle subterfuge in the guise of news or pleas for righteousness, to interfere with the independence of a judge or jury or with the orderly progress of a judicial proceeding. Where such interference begins the rights of free speech and freedom of the press end.

It should be borne in mind that in judging whether publications of the character referred to constitute contempt of court, it is immaterial whether the purpose of the offender be wrongful or innocent and it is also immaterial whether the court or jury actually has been influenced or any other threatened injury has been done. That is a contempt of court which is calculated or which tends to accomplish the wrongful result. Neither is it a defense to such a charge of contempt that the matters spoken are true. These are rules of necessity, since any others would nullify an indispensable power of the court to protect itself against all manner of unlawful interference.

Can it be said that our courts are free from the influences to which we call attention? If they are not, then it would be well that the matter be taken in hand and that some adequate measures be adopted to free them from those influences and in this effort the courts should have the enthusiastic and united support of the bar.

The Legal Status of the Venice Canals

By ARTHUR M. ELLIS *of the Los Angeles Bar*

Los Angeles with its environs of a quarter of a century ago has now become completely lost to our view. The January, 1905 issue of the *Los Angeles Times* pictures something utterly different from the land we know. The boast was there made that the city of Los Angeles had expanded its population to the enormous total of 170,000. At that time Venice did not exist, and the area now covered by it was made up of unattractive tide flats and barren sand dunes. The automobile was not an element in the life of the town. In fact, there were no roads upon which automobiles could be driven. In the early part of the year 1905 the Automobile Club became quite ambitious and gathered together a small group of automobilists to make the venturesome run to Riverside and back. A pilot was sent out ahead of them to look over the roads and to give warnings as to places of difficulty and it was hoped that the run could be completed in two days,—one to Riverside and another for the return. An item of great interest in the paper in the early part of 1905 was to the effect that an automobile had made its way to San Diego by two days of arduous travel.

At that time there was agitation regarding the improvement of some of the far outlying portions of the City of Los Angeles. The proposition was up to pave Washington Street westerly from Figueroa and to put some gravel and sand on Vermont Avenue from Tenth Street south. These two locations were on the outer fringe of the town. The newspapers contained substantial articles relative to the activities of driving clubs and of bicycle clubs, and the only automobiles known to the public were the Oldsmobile, the Rambler, the Pope-Toledo and the Stevens-Duryea, and there were few of them. The street views given in the New Year's issue of 1905 did not show any automobiles upon the streets. Hollywood was acclaimed in the issue as "Unique young Hollywood—a foothill gem looking out upon the sunset sea." Quite a description was given of the wide fields that lay between Los Angeles and Hollywood and a picturesque account of the tramway which carried the ambitious explorers out to that region was set forth.

At this juncture, Abbott Kinney, who was an enterprising citizen and an important property owner, conceived the idea of creating a "Venice of America," and his activities in connection therewith finally resulted in the laying out of a tract and the excavation of a large number of canals, about and along which residences have been constructed and which now lie within a densely populated portion of the City of Los Angeles.

There has been prolonged litigation with reference to these canals which has finally resulted in an adjudication that the city of Los Angeles is authorized in its proposed scheme of filling in the canals. The bar at large is not interested in the history of this section or in the course of the litigation, but this case involved matters absolutely without analogy or precedent, and in the various decisions and opinions handed down by the Superior Court, by the referee, by the District Court of Appeal and by the Supreme Court, there are found numerous elements of interest to the profession at large.

The first and basic point of difficulty was to ascertain what these canals were. The Superior Court defined them as being "public ways for all way purposes." The commissioner appointed by the District Court of Appeal was of the opinion that the canals were streets having fluid surfaces. He therefore took the view that hard surfaces might properly be placed in lieu of the fluid content. The District Court of Appeal, however, did not feel satisfied with these conclusions and discussed the matter somewhat fully. Upon a review of the various circumstances connected with the establishment of Venice of America, the Appellate Court was of the opinion that the dedication was a restricted one and that the city of Los Angeles was without power to convert the areas into surface streets.

As to the precise nature of the restriction, that is, as to the status of the water covered areas, the Appellate Court expressed the view that such artificial canals had a

distinct characteristic, and attempted to define them as partaking in a certain measure of the nature of public parks chiefly to be used as places of amusement and recreation. The court, however, noted that they were intended also as watery ways of transportation and was of the opinion that the abutting owners had rights in connection with the waterways similar to those which could be acquired in a natural watercourse. The court recognized the difficulty of the situation and confessed that no parallel situation could be found anywhere.

Three important problems were thus presented to the Supreme Court upon the rehearing. The first was as to whether such a thing could be created as a public park and recreation ground which had also been established as an avenue of transportation. The second was as to the rights of an abutting owner upon the waterway, and the third was as to the scope and effect to be given to the operation of changes in modes of life and transportation.

Each one of these three points involves principles of law which have a wide implication, and respecting the first two there is a dearth of authority.

As to the first point, the Supreme Court was of the opinion that the governing element in the dedication was the intent to have the property used in such a way as would be most convenient to the property owner. In as much as these water-covered ways constituted the prime highways of the area, the elements of recreation would have to yield. The Supreme Court therefore held that these were primarily highways. This is a very important proposition because lands dedicated for recreational purposes, such as parks, are held in trust, and it is a matter of vast practical difficulty to terminate the trust and divert the use of the property to any other purpose.

As to the second point, the Supreme Court held that the property owners could acquire no vested rights in artificial waterways. The construction of the canals at Venice had nothing to do with any existing natural water courses. The important point was therefore affirmed that property owners cannot acquire riparian rights in a canal which has been constructed to carry an artificial supply of water.

The third point is the most interesting one of all, viz: the effect to be given to the complete alteration which has been wrought in modes of transportation. When Venice of America was laid out it was wholly beyond the contemplation of anyone that such a thing could ever exist as a widespread network of hard-surfaced highways. The most industrious advertiser of the Venice lots announced in the newspapers of the time that "we have carriages at our door to show you Venice." It was not until 1907 that the Legislature adopted a statute authorizing the creation of a county highway commission and not until 1911 was any notable activity begun in the construction of roads which could be traveled over by an automobile at a speed above ten miles an hour. Venice of America was laid out with the expectation that travelers would reach the center of its life and activity by the red electric cars, and that they would then embark upon gondolas propelled by the Venetians who were imported for that purpose, and that they would then ride in state to the steps of their various villas. Actual developments have been utterly different. The Supreme Court was unequivocal in holding that the dedicators were bound by the operation of changes in conditions of transportation although "it may not have been actually contemplated by any of the parties to the acquisition and grant that they would be used for surface highways."

The decision, therefore, is strong authority that a dedicator intends that highways shall respond to "whatever demands, new improvements and increased facilities may make upon them so only that such demands must always be consistent with their character and purpose as public highways."

The New Inheritance Tax Laws

By LEONARD MERRILL, *State Inheritance Tax Appraiser for Los Angeles County.*

The inheritance tax laws of California in effect since August 14, 1929, reflect the experience of the State Inheritance Tax Department in a continuous, year to year study of inheritance tax laws and the actual results obtained in the interpretation and application of them, including comparisons with those laws in other States. It has been the aim that these laws in California should not be burdensome to the beneficiaries of decedents, but should be fair, and when compared to the laws of other States should not suffer by such comparisons. The community law of California as compared with other States is most favorable to the surviving spouse. This is evidenced by the fact that an estate, no matter where created, if created under conditions that would make it community property in California, and if the decedent dies in California, is treated the same as though the estate were created in California.

By the new legislation, the widow's exemption has been increased from $24,000.00 to $50,000.00. The rate between $100,000.00 and $200,000.00 has been reduced from 7% to 6%; between $200,000.00 and $300,000.00, the rate has been reduced from 10% to 7%; and for the excess over $300,000.00, the rate is 8% as against the former rates of 10% up to $500,000.00 and 12% thereafter.

A second class has been created for the decedent's husband, lineal ancestor or issue, including an adopted or mutually acknowledged child, and the rate between $200,000.00 and $500,000.00 has been reduced from 10% to 9%; and for the excess over $500,000.00, the rate is 10% as against the former rate of 12%.

The exemption to brothers, sisters, their issue and the wife or widow of a son, and husband of a daughter of the decedent, has been increased from $2,000.00 to $5,000.00. For beneficiaries of this class the rate for the excess over $100,000.00 has been reduced to 12% as against the former rates of 15% between $200,000.00 and $500,000.00 and 18% thereafter.

For uncles, aunts and cousins, the rate for the excess over $100,000.00 has been reduced to 12% as against the former rates of 15% between $100,000.00 and $200,000.00 and 20% thereafter.

In the case of all others, including strangers to the blood and a body politic or corporate, the rates for the excess over $50,000.00 have been reduced to 12%, as against the former rates of 15% between $50,000.00 and $100,000.00 and 20% thereafter.

Comparing these exemptions and rates as applied to 75 estates from past records with a total net value of $9,449,388.39 and with an average net value $1,259,925.18, the net values range from $164,394.77 to $5,577,927.43, with community interest value of $8,085,467.03. Reduction in amount of tax on these estates under the 1929 Act is $142,992.58. Community exemption to the widow does away with tax entirely in estates where the widow's interest is $74,000.00 or less.

In 100 estates with a total value of $7,508,803.57, an average net value of $75,088.03, and a net value range of $26,757.67 to $99,923.95, the reduction in amount of tax under the 1929 amendment is $28,721.91. The reduction of tax to widows is 69%, and the average reduction to all beneficiaries is 35%.

It is enlightening to note what would have been the difference on collections for the year ending June 30, 1928 had the new amendment then been in effect. Instead of the amount paid, $11,272,179.78, the estimated collections on the same estates under the 1929 amendment would have been $9,450,619.80, revealing a net loss to the State of $1,821,559.98 and a saving to the beneficiaries in these estates of this large sum.

Where specific property passes for the second time within five years between persons in these classes, it is excluded from tax in the second estate to the extent of the value taxed in the first estate.

The interest of the surviving spouse in community property is not subject to tax. Stock in domestic corporations owned by non-residents is exempt from tax in cases where the decedent is a resident of a State, territory, or foreign country which imposes the tax on residents thereof but either does not impose the tax on residents of this

State, or grants reciprocal exemptions. Bonds of California corporations or political subdivisions of the State, notes, choses in action, and moneys in bank owned by non-residents are not subject to tax.

In the case of a transfer intended to take effect in possession or enjoyment at or after death, the value of the transferred property is to be taken as of the date of death of the transferor.

Transfers made more than four years prior to the date of death are to be presumed not to have been made in contemplation of death; and in the case of a transfer of real property or stock of a corporation, the four-year period begins with the date of recordation of the instrument conveying the real property, or with the date of transfer on the books of the corporation of the stock to the transferee.

A new sub-section declares, as was formerly understood, that the proceeds of life or accident insurance policies, payable other than to the insured, his estate, executor, or administrator, shall not be subject to the tax. It is further provided that the proceeds of any Federal war risk insurance policy payable to the estate of any veteran of the World War shall be exempt from the tax.

The amendment extends the deduction for inheritance or succession taxes so as to include taxes paid to any territory of the United States and any foreign state or country. It also extends the exemption as to charitable bequests so as to include societies, corporations, institutions or associations organized outside of California where a similar exemption is extended to California charities.

In a recent conversation with State Controller Honorable Ray L. Riley with reference to the inheritance tax laws of California as compared with other States (eastern States particularly), it developed that California stands at the forefront in fair tax rates and favorable exemptions. Mr. Riley is frequently in nation-wide conferences on tax laws and their application. The administration of this law in California, throughout the State, is conducted by so thorough a system as to place the Inheritance Tax Department on a par in efficiency with the States whose departments are conducted in the best manner, with competent attorneys and efficient appraisers selected for their fitness.

ATTORNEYS INVITED TO ATTEND MEETING OF WOMEN LAWYERS CLUB

Mr. John Bradway, Director of the Legal Clinic of the University of Southern California, will speak at the regular dinner meeting of the Women Lawyers Club to be held at the Windsor Tea Room, Brack Shops, Thursday, December 5, 1929, at 6:30 p.m. His subject will be, "The Place of Legal Aid in the Community."

Members of the Bar Association are cordially invited to attend the meeting. For reservations phone TUcker 7446. $1.00 per plate.

Special announcements by law firms of new locations and new associations are most effectively made to the profession through the pages of the BULLETIN. *In addition, such announcements serve as a manifestation of good-will toward and co-operation with the* BULLETIN *in its program of constructive endeavor for the welfare of the Bar Association.*

Important Notice

The November meeting has
been called off.

THE DECEMBER MEETING will be an unusual and noteworthy event. There will be lots of fun and many interesting features. Mark your calendar now so that you will reserve this date — Dec. 19, 1929, 6:00 p.m.

The Program Committee is concentrating its efforts on making a big event for the December meeting, which will be in keeping with the Yuletide Season. For this reason, and on account of the November meeting coming close to Thanksgiving, we are not planning a NOVEMBER meeting.

KIMPTON ELLIS,
Chairman Program Committee

Southern California Legal Aid Clinic

The Law School of the University of Southern California, in co-operating with an association composed of representatives of the bar and other outstanding community interests, has recently established a new service agency for the southern part of the State which is called the Legal Aid Clinic. The Board of Trustees of the Los Angeles Bar Association has made a careful examination of the project, of its plan and method of operation and has voted its approval of the clinic and recommends it to the favorable consideration and support of the bench and bar of this community.

The word "clinic" connotes a place where poor people unable to pay a doctor may still secure medical services; and also a place where medical students, under supervision, receive practical training in the work of their profession. A "legal aid clinic," while not entirely parallel, is designed to do two things. For the many people who cannot afford an attorney for legal advice, it provides a method of giving advice and assistance and at the same time, being connected with a law school, it provides to the third year students, under careful supervision, an opportunity for learning the practical routine of the work in which later on they will engage as full-fledged members of the bar.

The course has been made a required one for all third year students and every afternoon two of them are assigned to duty in the clinic office. Here, under supervision of the director and attorneys, they interview clients, decide what are the facts of the cases, investigate various aspects of the problems; and, after a careful conference with a clinic attorney, who is in each case a member of the bar, advise clients or help to prepare their cases for court.

In order that the work of the clinic may be made most effective particularly in its service to the community, there has been established an association regularly incorporated under the laws of the State of California, with the name of the Southern California Legal Aid Clinic Association. The officers and directors of the organization are as follows:

Guy Richards Crump, *President*
Harry J. Bauer, *First Vice-President*
William Lacy, *Second Vice-President*
Mrs. Dora Shaw Heffner, *Recording Secretary*
Mrs. Florence J. DeGarmo, *Corresponding Secretary*
Mrs. Ethel Louise Turner, *Treasurer*
Mrs. C. Raymond Bradford, *Chairman Finance and Membership Committee*
Justin Miller, *Dean of the Law School*
John S. Bradway, *Director.*

The attorneys in charge of the work are Mrs. Dora Shaw Heffner, assistant in the Juvenile Court at Los Angeles, and Colonel John W. Barnes, United States Army, retired.

The office of the clinic is located in the law school building of the University of Southern California, at 36th Place and University Avenue. The entrance is 712 West 36th Place. The office is open daily, except Saturdays, Sundays, and holidays, from 1:30 to 3:30 in the afternoons and on Thursday evenings from 6:30 to 7:30.

The work began on the sixteenth of September and since that time there have been an average of between six and seven cases a day. These have been referred from many sources but particularly by public officials or members of the bar. Many have learned of the clinic from reading about it in the newspapers. The types of cases are varied in the extreme, some of the more frequent being—small money collections, cases where people claim they have been swindled, landlord and tenant difficulties, matters where information is desired about estates of deceased persons, matters where information is desired about bankruptcy proceedings, and matters where information is sought by wives interested in problems of desertion and non-support.

The first great problem is to determine whether such cases and applicants are properly within the "legal aid jurisdiction." This necessitates the investigation of their financial condition. If they can pay a fee, even a small fee, they are not accepted. Among the first fifty cases handled, ten were thus refused because it appeared that the parties could pay a fee and therefore ought to secure their own counsel. Others have been turned down because their cases involved divorce, personal injury, or criminal matters. Ordinarily, the clinic will not accept cases of this kind because it is felt that the applicant should secure an atorney and pay a fee, or because the very efficient Public Defender's and City Prosecutor's offices offer adequate remedy.

There are two important aspects of the work which should be mentioned. The clinic is designed to dispose of cases without litigation if reasonable results can be obtained in this way. To date only a single case has come to the point where court action is necessary, and that is a case involving support for the wife against the husband. Unless the experience in Los Angeles is different from that in the legal aid societies in most cities, considerably less than five per cent of the cases coming in will result in court action, and many of these will be ex parte proceedings, being mostly in support cases and in the matter of custody of children.

The second point of emphasis is the importance of keeping within the "legal aid jurisdiction." The clinic is designed to cooperate with the bar, the courts, the District Attorney, the City Prosecutor, the Public Defender, and the various social agencies. It is proposed to so direct its course that it will not overlap the work of any of these organizations but merely supplement it. At the present time, cordial relations are being established with the various social, charitable, and religious organizations in the city.

The action of the University of Southern California School of Law in establishing a legal aid clinic is in line with the general development of legal aid work throughout the country. The American Bar Association, some twelve State bar associations, and numerous local bar associations have committees on legal aid work and have definitely committed themselves in support of the principle that no man should be hindered in securing justice because of his poverty or because of the complicated nature of court proceedings. Men like Chief Justice Taft, Elihu Root, Charles Evans Hughes, John W. Davis, and others, have enthusiastically supported the idea on a national basis. At the same time, there is gaining strength in the field of legal administration the belief that there should be some special way devised to bridge over the gap between theoretical training in the law school and the practical office routine which the young lawyer must learn. At the present time no more satisfactory device has been set up than the legal aid clinic.

Beginning years ago in Denver, the idea has been taken up by the law schools at Harvard, Yale, Cincinnati, Northwestern, Minnesota, and Washington University at St. Louis, and elsewhere. In establishing such a clinic, therefore, the University of Southern California is in the van with the leading law schools of the United States. In approving the work of the clinic, the Los Angeles Bar Association is in the van with the American Bar Association and the other leading bar associations of the United States.

The average practicing attorney will find the clinic a convenient place to send clients who cannot pay fees and who hang around his office expecting him to spend time and effort on their cases. The bar, as a professional group interested in the administration of justice, will find in the clinic a new piece of machinery supplying legal assistance to poor persons. The law student will find himself confronted with a series of intensely interesting, human as well as legal, problems which he must work out under careful supervision, thus increasing his fund of practical experience and bringing home to the client who comes to him the definite assurance that an injury done is not without a practical legal remedy whether the individual has money or not. It is obvious that there must be a period of experimentation before this piece of machinery will run in accordance with the highest efficiency. The friendly co-operation of all members of the bar is essential to the end that the Southern California Legal Aid Clinic may in time become the most efficient legal aid organization in the United States.

Law in the United States*

No subject is engaging more widespread or more critical attention in the United States at the present time than the law — civil and criminal — and the machinery for its administration and enforcement. Popular interest has been quickened by the appointment of President Hoover's Law Enforcement Commission, but certainly did not originate with it. Discussion, for instance, of the legal difficulties of enforcing Prohibition has been continuous and intense ever since the effects of the Eighteenth Amendment were felt. Moreover, crime, generally, is a perennial subject of debate in the United States. Americans have always been very frank in advertising their crimes and the defects of their law and legal institutions. In President Hoover's recent speech, for instance, he gave statistical comparisons in respect of crime with England's relative lack of it. And yet, as the President's Commission discovered, no reliable crime statistics for the United States exist, and, in addition, the whole background of conditions, historical, geographical, political, racial, social and economic, widely differentiate the United States from any other country and make its task and its problems unique.

Law everywhere in the modern industrial world is inevitably complex, and the problems of law are growing even more so. It is frequently pointed out that most of our Common Law grew up to deal with conditions prevailing before the highly complicated relationship of the modern machine age developed. Law is complex in the United Kingdom with its homogeneous population of forty-four millions in an area of ninety-four thousand odd square miles. It is infinitely more complex in the United States with its heterogeneous population of over one hundred and twenty million persons drawn from very diverse racial stocks, each having very different conceptions both of the functions and of the sanctions of law, and living under much more rapidly changing conditions in an area of over three million square miles.

Moreover, unlike England, the United States, in law making, administration and enforcement, is not one country, but at least forty-nine, since each of the forty-eight States has its own separate and, unless otherwise specified by the Federal Constitution, sovereign authority embodied in systems existing side by side with and independent in jurisdiction of the Federal system. For example, there is no uniformity among the States in the laws governing divorce or inheritance.

This division of sovereign authority is in itself a fruitful source of complexity. It encourages the natural tendency of democracies to make many laws. The United States rightly has been called "the greatest law factory in the world." Eliminating minor measures, Congress and the States together enact bi-annually—the usual legislative term of office—an average of twelve thousand statutes. Counties and municipalities in their turn add a mass of ordinances far exceeding in number the legislative output of Congress and the States combined, and similarly with law-making or the adaptations of law by the decisions of the courts. These decisions—of courts of last resort only—occupy to-day 10,443 volumes in the Law Library of Congress, which contain approximately 1,408,455 cases, and 10 per cent. of them are not recorded.

The division of sovereign authority also leads, naturally, to immense diversity not only in the law itself but in the various agencies and forms of procedure for its administration and enforcement. Federal, State and local courts, police and law enforcement officials are without central, unifying control.

There is no one court, such as the Privy Council in England, which has authority to lay down, finally, the rule which shall be supreme, except in questions relating to Constitutional provisions, in all States in the Union. In by far the greater part of both civil and criminal causes affecting the property and persons—even in matters of life and death — of the American people, neither the United States Supreme Court nor any Federal authority has jurisdiction.

There is no organization in the United States corresponding to Scotland Yard. Nor

*EDITOR'S NOTE: *This article, from* THE SPECTATOR, *London, gives an interesting English perspective of problems of law in America. The article is furnished the* BULLETIN *by Judge Arthur Keetch, who has obtained permission for its publication.*

is there any effectively unifying organization of bench and bar. Federal courts and State courts respectively may determine who has the right to practice before them.

There are more than four hundred different bar associations in the United States, and one national organization, the American Bar Association. But the total membership of these bodies, in proportion to the number of judges and lawyers in the country, is comparatively small. Of more than 4,600 judges actively engaged in the administration of justice, and of between 125,000 and 150,000 practicing lawyers, only 1,005 and 26,595, respectively, were mmebers of the American Bar Association at the time its last annual report was made.

Moreover, the various Bar Associations are purely voluntary bodies, and though they have great influence they have no legal powers corresponding to those of the Inns of Court and the Law Society in respect of discipline or admission to practice. Nor is there any central authority to exercise such powers, for they are divided between the Federal and State Governments and exercised in such ways as the several constitutions determine.

Thus the organization of the vast and complex system of law and legal institutions has not kept pace with the social and economic progress and complexity which mark the United States of to-day. As Dean Roscoe Pound, of Harvard Law School, has said:—

> "The characteristic Anglo-American legal polity has a background of historical unity and a foreground of individualized local detail. This polity did well in the society of independent, local neighborhoods of early nineteenth-century America. It is strained to the breaking point in the economically unified society of interdependent communities which obtains to-day."

Will it survive the strain? Despite the grave warnings that have been heard from the highest authorities, including the President and the Chief Justice of the Federal Supreme Court, very few Americans have serious doubts on that score. In fact, the average American's optimism over his national institutions does not cause him to give the problem much thought.

In the first place the defects are widely recognized and many of the best legal and

lay minds in the country are striving to eliminate them. An immense amount of work has already been done towards reform and readjustment, and in this work none are more active than influential members of the bench and bar themselves. A most important movement is that of the American Law Institute, which includes among its membership many of the most distinguished judges and lawyers in the country. It has undertaken the immense task of reducing the Common Law of to-day to clear and authoritative restatement. It is also devising a model code of criminal procedure which may be uniformly adopted. Though the results of its efforts will be merely persuasive, they will have behind them such a body of competent opinion that distinct progress should result. Similarly the National Conference of Commissioners on Uniform State Laws is also doing much to influence the adoption of uniform statutes. Reforms in the training and admission to practice of lawyers and in the selection of judges and the conduct of the courts are being brought about by a number of influences. In this work the Bar Associations and the leading law schools are cooperating with State and Federal authorities. President Hoover has brought the immense moral and administrative influence of the Presidency to reinforce numerous official and unofficial activities in various parts of the country. The appointment of his Law Enforcement Commission, and the attention, which he is giving to reforms in the Federal system, mark a decided practical advance.

Finally, the problems of law are being seen, more and more, as a challenge to the morale and genius of the whole nation. They are problems without parallel in the history of democratic institutions and their solution is unlikely to be achieved by shortcuts. Yet to doubt that steady progress toward their solution will be realized would be to shut one's eyes to the whole record of American achievement.

New York IVY LEE.

STATEMENT OF THE OWNERSHIP, MANAGEMENT, CIRCULATION, ETC., REQUIRED BY THE ACT OF CONGRESS OF AUGUST 24, 1912.

Of The Bar Association Bulletin published monthly at Los Angeles, California, for October 1, 1929.
State of California, County of Los Angeles, ss.

Before me, a Notary Public in and for the State and county aforesaid, personally appeared Howell Purdue, who, having been duly sworn according to law, deposes and says that he is the Editor of the Bar Association Bulletin and that the following is, to the best of his knowledge and belief, a true statement of the ownership, management (and if a daily paper, the circulation), etc., of the aforesaid publication for the date shown in the above caption, required by the Act of August 24, 1912, embodied in section 411, Postal Laws and Regulations, printed on the reverse of this form, to wit:

1. That the names and addresses of the publisher, editor, managing editor, and business managers are:
Publisher Los Angeles Bar Association, 1126 Rowan Building., Los Angeles, California. Editor Howell Purdue, 821 Title Insurance Building, Los Angeles, California. Business Managers. ————————.

2. That the owner is: (If owned by a corporation, its name and address must be stated and also immediately thereunder the names and addresses of stockholders owning or holding one per cent or more of total amount of stock. If not owned by a corporation, the names and addresses of the individual owners must be given. If owned by a firm, company, or other unincorporated concern, its name and address, as well as those of each individual member, must be given.)
The Los Angeles Bar Association, an unincorporated association, composed of members of the Los Angeles City and County Bar. Address: 1126 Rowan Building, Los Angeles, California.

3. That the known bondholders, mortgagees, and other security holders owning or holding 1 per cent or more of total amount of bonds, mortgages, or other securities are: (If there are none, so state.) None.

4. That the two paragraphs next above, giving the names of the owners, stockholders, and security holders, if any, contain not only the list of stockholders and security holders as they appear upon the books of the company but also, in cases where the stockholder or security holder appears upon the books of the company as trustee or in any other fiduciary relation, the name of the person or corporation for whom such trustee is acting, is given; also that said two paragraphs contain statements embracing affiant's full knowledge and belief as to the circumstances and conditions under which stockholders and security holders who do not appear upon the books of the company as trustees, hold stock and securities in a capacity other than that of a bona fide owner; and this affiant has no reason to believe that any other person, association, or corporation has any interest direct or indirect in the said stock, bonds, or other securities than as so stated by him.

5. That the average number of copies of each issue of this publication sold or distributed, through the mails or otherwise, to paid subscribers during the six months preceding the date shown above is ———— (This information is required from daily publications only.)

(Signed) HOWELL PURDUE.
(Signature of editor, publisher, business manager, or owner.)

Sworn to and subscribed before me this 1st day of October, 1929. (Signed) NAN B. SMITH,
Notary Public in and for the County of Los Angeles, State of California.
(Notary Seal) (My commission expires February 15, 1933)
Form 3526.—Ed. 1924

Book Reviews

HARRY GRAHAM BALTER *of the Los Angeles Bar*
Assistant United States Attorney

ESSAYS IN THE LAW OF LIBEL; by Leon R. Yankwich, J. D., LL.D., Judge of the Superior Court, Los Angeles County, California; 1929; iii and 310 pages; Parker, Stone & Baird Co., Los Angeles.

Early this year, in a modest grey cover, and from the press of Parker, Stone & Baird Company, of Los Angeles, there appeared under the title, *Essays in the Law of Libel,* a thin, but most informative, little volume, by a very dear friend of mine, with whom I first became acquainted in a libel case in which he thoroughly thrashed me.

Until I came in contact with the author of that volume, I thought I knew pretty much all there was to know concerning the law of libel. In fact I had established what I then conceived to be a rather enviable reputation in that regard.

But I learned about libel from him.

I understand that the little volume in question, the author of which is Honorable Leon R. Yankwich, who (fortunately for Los Angeles County and the State) now graces our local Superior bench, is about to go into a second edition. That it should is no surprise to me. In fact, unless the second edition is large enough to meet all reasonable demands, edition should follow edition until such demands are adequately supplied.

While small in bulk, the book bulks large in value. No work on its particular subject (and I am familiar with all of them) so clearly, concisely, and definitively deals with that subject, or deals with it in a manner so intelligently informative.

While concise in its treatment of the various matters dealt with, it is comprehensively complete as to each; and while appealing most strongly to the lawyer, it cannot fail to be of interest to the lay reader, and it is of paramount importance and value to every publisher of every newspaper throughout the land. As a guide to those purveyors of news to the public at large, it stands as a bulwark of advice against possible expensive mistakes.

Nothing has ever appeared in its particular field that is so genuinely and tersely complete; nor can I conceive of any more valuable publication upon the subject with which it deals. As the law now stands it is the epitome of the law of libel.

Whoever is interested in that branch of the law and whoever is so fortunate as to get hold of this remarkable little volume can "read, mark, learn and inwardly digest" to his infinite profit.

W. H. ANDERSON.

REAL ESTATE FINANCING; by Nelson L. North, DeWitt Van Buren and C. Elliott Smith; xi and 630 pages; 1928; Prentice-Hall Co., New York; Price, $6.00.

This is another of the interesting and practical books published by Prentice-Hall in the field of business and finance. Mr. North and Mr. Van Buren are both well known as the authors of *Real Estate Titles and Conveyancing.*

As the title indicates, this volume deals with the more specialized problem of real estate financing, and the authors, at least two of whom are specialists in this field, have drawn from the vast fund of their experience to give us nearly every conceivable ramification of the related problems dealing with real estate financial manipulations. There are nineteen chapters; here are the titles of a few, sufficient to give the reader an idea as to the field covered: Sources of Credit; Savings and Loan Associations; Mortgages, Placing and Supervision; Junior Liens; Land Trusts; Real Estate Syndicates; Real Estate Corporations; Financing Building Construction; Financing the Subdivision; Financing the Home; and Financing the Farm.

Throughout the volume there are set out six appendices which contain valuable forms of different types of instruments used in real estate financing.

This is not, nor did the authors intend it to be, a law book for lawyers; it is rather a practical handbook useful to the realtor, real estate investor, lawyer, banker, insurance company, title company, and savings bank executive, as well as to the student of real estate financing.

In as much as this volume has not been written with particular reference to California real estate practice (if you are interested in this, read Schneider, *California Real Estate*), it should be kept in mind that a too slavish following of each and every detail and suggestion recited in this book is not advisable. But, with this slight reservation, we have here an admirably practical and useful handbook.

HARRY GRAHAM BALTER.

HIGH COST OF LITIGATION IN ENGLAND BEWAILED

The high cost of litigation in England which has always been regarded as a more or less effective threat to keep unworthy cases, and probably many worthy ones too, out of court, is meeting with increasing resentment from the British public, according to recent press dispatches from that country.

Ever since the days when the notable cause of *Jarndyce and Jarndyce* consumed an entire estate before the case was finally determined, litigation in the "tight little island" has been anything but an inexpensive luxury. A recent divorce case is said to have cost no less than $150,000, and the famous Tichborne trial over a disputed estate cost $520,000. In another recent case, five of the nine king's counsel briefed in the case each received fees of $5,000, with "refreshers" at the moderate rate of $795 a day.

Lord Justice Scrutton in denouncing the "outrageous" estimate for costs in a case brought before the Court of Appeal, called attention officially to the increasing costs of litigation which, he said, may develop into a serious scandal unless checked.

The practice of keeping distinct the professions of solicitor and barrister is regarded by many as the chief cause of the high cost of litigation, in that it creates two sets of fees at the very outset.

—*The Ohio Law Bulletin and Reporter.*